REMARKS

This Application has been carefully reviewed in light of the Office Action dated October 11, 2007 (*"Office Action"*). In the *Office Action*, Claims 1-39 are pending. The Examiner rejects Claims 1-13, 15-21, and 23-39; and objects to Claims 14 and 22. Applicants amend Claims 6, 7, 22, 26, 36, and 39. Applicants submit that no new matter has been added by these amendments. Applicants respectfully request reconsideration and favorable action in this case.

Allowable Subject Matter

Applicants note with appreciation the Examiner's indication that Claims 14 and 22 would be allowable if rewritten in independent form including all of the features of the base claim and any intervening claims. However, as discussed below, Applicants believe that independent Claim 11 (from which Claim 14 depends) and independent Claim 16 (from which Claim 22 depends) are also allowable. Therefore, Applicants have not rewritten Claims 14 and 22 in independent form.

Applicants note that Claim 22 has been amended to change its dependency from Claim 19 to Claim 17. In reviewing the claims in preparation for this Response, it was noticed that the dependency of Claim 22 was incorrect. Accordingly, Applicants have amended the claim to correct Applicants' mistake. Applicants respectfully submit that the amendment to Claim 22 does not change the status of the claim as being allowable over the prior art of record.

Section 103 Rejections

The Examiner rejects Claims 1-13, 15-21, and 23-39 under 35 U.S.C. § 103(a) as being unpatentable over various combinations of U.S. Patent Application Publication No. 2003/0061319 issued to Manzardo (*"Manzardo"*), U.S. Patent No. 7,085,805 issued to Ruberg et al. (*"Ruberg"*), U.S. Patent No. 6,609,213 issued to Nguyen et al (*"Nguyen"*), U.S. Patent No. 6,853,714 issued to Liljestrand et al. (*"Liljestrand"*), U.S. Patent No. 6,785,223 issued to Korpi et al. (*"Korpi"*), and U.S. Patent No. 7,023,876 issued to Berry et al. (*"Berry"*).

A.   The Claims are Allowable over the cited References

Because the proposed combinations do not disclose, teach, or suggest the features of Applicants' claims, Applicants respectfully traverse the rejection of the claims and request reconsideration and favorable action.

1.   Claims 1-2, 4, 16-18, 21, 23, 32, 33, and 35

In the *Office Action*, the Examiner rejects Claims 1-2, 4, 16-18, 21, 23, 32, 33, and 35 over the *Manzardo-Ruberg-Nguyen* combination. It is Applicants' position, however, that the proposed *Manzardo-Ruberg-Nguyen* combination does not disclose the particular combination of features and operations recited in Applicants' claims.

For example, the proposed *Manzardo-Ruberg-Nguyen* combination does not disclose, teach, or suggest "determining that the interruption in keep alive signals **resulted from failure of the first user endpoint and not as a result of voluntary disconnection**," as recited in amended Claim 1. In the *Office Action*, the Examiner acknowledges that the recited features and operations are not disclosed in *Manzardo* and *Ruberg*. Rather, the Examiner relies upon the additional teachings of *Nguyen* for disclosure of these claim elements. Applicants respectfully submit, however, that *Nguyen* does not cure the acknowledged deficiencies of *Manzardo* and *Ruberg*.

To the contrary, and similar to *Manzardo*, *Nguyen* discloses a system and method of recovery from server failures. (*Nguyen*, Title). Specifically, the system of *Nguygen* operates as follows:

> A system and method for recovering from **a server failure** in a computer network, wherein the network contains several stand-alone, non-clustered, servers, and a cluster, wherein a clustered server also serves as the spare server, is disclosed . . . The cluster monitors the health of the **stand-alone servers**, preferably through the use of a heartbeat mechanism. If the cluster detects a failure, it will reassign the LUNS owned by the **failing server** to the cluster . . . Subsequently, the cluster will assume the identity of the failing server and serve its users, until the failing server is repaired or replaced.

(*Nguyen*, Abstract). Thus, although *Nguyen* discloses a heartbeat mechanism, such heartbeat signals are initiated by a server. Like *Manzardo* (which Applicants persuasively demonstrated

in the previous Response submitted on July 17, 2007, failed to disclose these same claim elements for similar reasons), the "heartbeats" disclosed in *Nguyen* are initiated by a server and are transmitted to a monitoring server to indicate that the server is operational.

In the *Office Action*, the Examiner points to Column 5, line 37 of *Nguyen* for disclosure of the recited claim elements. However, the cited portion of *Nguyen* merely confirms what Applicants have shown above. Specifically, *Nguyen* states:

> . . . the heartbeat mechanism involves transmitting a packet, or heartbeat signal, to a server 14 on the network and waiting for **a response from server 14**. The heartbeat mechanism is operable to request a response to the heartbeat signal from server 14. If server 14 is alive, or functioning properly, it will respond to the heartbeat signal in a timely manner. **If server 14 does not respond within a specified period of time, then this inability to respond indicates that server 14 is failing and will be unable to serve its associated users**.
>
> Accordingly, at step 36, if cluster server 18 receives a timely response from servers 14 to a given heartbeat signal, it will continue monitoring the status of servers 14 as shown at step 34. However, if cluster server 18 does not receive a response **from a server 14** within a specified period of time, then cluster server 18 will initiate a failover procedure. At step 38, the storage consolidation software associated with the SAN reassigns the LUNs owned by the failing server 14 **to cluster server 18**.

(*Nguyen*, Column 5, lines 28-46, emphasis added). Thus, the cited portion of *Nguyen* merely confirms that heartbeat signals are transmitted from a server to a monitoring server. There is no disclosure in *Nguyen* of transmitting heartbeat signals from a user endpoint or of identifying an interruption in heartbeat signals from a user endpoint. Accordingly, Applicants respectfully submit that *Nguyen* does not disclose, teach, or suggest "determining that the interruption in keep alive signals resulted **from failure of the first user endpoint**," as recited in Applicants' Claim 1.

Further, even to the extent that the server of *Nguyen* is analogous to Applicants' first user endpoint (which Applicants expressly disputes), there is no disclosure in *Nguyen* of "determining that the interruption in keep alive signals resulted from failure of the first user endpoint and **not as a result of voluntary disconnection**," as recited in Claim 1. As discussed above, *Nguyen* only discloses that "[i]f server 14 does not respond within a specified period of

time, then this inability to respond indicates that server 14 is failing and will be unable to serve its associated users." (*Nguyen*, Column 5, lines 34-37 and 41-43). Thus, any lack of response is deemed a failure and the failover procedure is initiated. There is no disclosure in *Nguyen* of distinguishing between a failure and a voluntary disconnection by a user of the first endpoint. Accordingly, Applicants respectfully submit that *Nguyen*, and thus, the *Manzardo-Ruberg-Nguyen* combination, does not disclose, teach, or suggest "determining that the interruption in keep alive resulted from failure of the first user endpoint and not as a result of voluntary disconnection," as recited in Claim 1.

For at least these reasons[1], Applicants respectfully request reconsideration and allowance of Claim 1, together with Claims 2 and 4 that depend from Claim 1.

Independent Claims 16 and 32 includes certain features and operations that are analogous to the features and operations recited in Claim 1. For example, Claim 16 recites "a processor operable to . . . determine that the interruption in keep alive signals resulted from failure of the first user endpoint and not as a result of a voluntary disconnection by a user of the first endpoint." Claim 32 recites "determining that the interruption in keep alive signals resulted from failure of the first user endpoint and not as a result of a voluntary disconnection by a user of the first endpoint." Accordingly, for reasons analogous to those discussed above with regard to Claim 1, Applicants submit that the proposed *Manzardo-Ruberg-Nguyen* combination does not disclose, teach, or suggest the features of independent Claims 16 and 32. For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 16 and 32, together with Claims 17-18, 21, and 23 that depend on Claim 16 and Claims 33 and 35 depending from Claims 16 and 32, respectively.

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[1] Additionally, it continues to be Applicants' position that the proposed combination does not disclose, teach, or suggest Applicants' steps of "maintaining a connection with the second user endpoint after the interruption" and "reestablishing the communication session between the first user endpoint and the second user endpoint if the keep alive signals resume within a predetermined time period," as recited in Claim 1. In a Response to Office Action submitted on March 9, 2007, Applicants identified, as examples, several claim elements that were not disclosed in the proposed *Manzardo-Ruberg* combination. Although Applicants believe that those previous arguments continue to have merit, to avoid burdening the record, Applicants do not repeat those arguments here. Rather, Applicants refer the Examiner to pages 11-14 of the previous Response to Office Action for a detailed discussion of the failure of the proposed *Manzardo-Ruberg* combination to disclose, teach, or suggest the recited features and operations.

2.   Claim 7

Claim 7 has been rewritten in independent form to include the limitations of Claim 1 prior to any amendment in this Response to Office Action. Thus, Claim 7 has not been substantively amended but now independently recites:

> A method for recovering a communication session after failure of an endpoint, comprising:
>
> establishing a communication session between a first user endpoint and a second user endpoint, wherein
>
> receiving keep alive signals from the first user endpoint;
>
> detecting an interruption in the keep alive signals from the first user endpoint;
>
> maintaining a connection with the second user endpoint after the interruption;
>
> transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint
>
> wherein:
>
> the first user endpoint is associated with a user in a directory relating a plurality of users to a plurality of endpoints;
>
> the third user endpoint is also associated with the user in the directory; and
>
> wherein the method further comprises:
>
> determining the user associated with the first user endpoint using the directory;
>
> determining that the third user endpoint is also associated with the user; and
>
> selecting the third user endpoint for the communication session.

Applicants respectfully submit that the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest the combination of features and elements recited in Applicants' now independent Claim 7.

For example, the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest at least the following combination of claim elements recited in Claim 7:

- determining the user associated with the first user endpoint using the directory,

- determining that the third user endpoint is also associated with the user,

- selecting the third user endpoint for the communication session, and

- transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint.

In the Office Action, the Examiner specifically relies upon page 8, paragraph 82 of *Manzardo* for disclosure of Applicants' recited claim language. However, that portion of *Manzardo* merely discloses that the main server "may include or store information regarding connections, gateways, interfaces, other client connection devices, calls, addresses, user devices, configuration details, content, requests, connections, communications, etc." (*Manzardo*, Page 8, paragraph 82). There is no disclosure in *Manzardo* that such information is used to perform steps analogous to Applicants' above-recited steps.

In fact, *Manzardo* merely discloses that the stand-by server 104 may initiate a switch over from the main server 102 to the stand-by server 104 if the stand-by server 104 fails to receive one or more of the keep alive signals. (*Manzardo*, Page 5, paragraph 49). Thus, *Manzardo* relates to the switch-over between two servers that support a call between two endpoints. Since *Manzardo* does not relate to the failure of endpoints but rather to the failure of a server, there would be no need (and *Manzardo* discloses no such need) for performing steps of "determining the user associated with the first user endpoint using the directory," "determining that the third user endpoint is also associated with the user," "selecting the third user endpoint for the communication session," and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in Applicants' Claim 7. The claimed operations are simply absent from the disclosure of *Manzardo*.

Likewise, *Ruberg* also "relates to methods and apparatus for data distribution among servers in a grouped server system where device operations remain uninterrupted when a server fails." (*Ruberg*, Column 2, lines 18-20). Thus, even to the extent that *Ruberg* discloses a "desktop unit" that may or may not be analogous to Applicants' recited "user endpoint," *Ruberg* also does not relate to the failure of such a desktop unit. Accordingly, the system of *Ruberg* would have no need (and *Ruberg* discloses no such need) for performing steps of "determining the user associated with the first user endpoint using the directory," "determining that the third user endpoint is also associated with the user," "selecting the third user endpoint for the

communication session," and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in Applicants' Claim 7.

Since neither *Manzardo* nor *Ruberg* relate to the failure of endpoints but instead each relate to the failure of a server, even the combination of these references cannot be said to disclose Applicants' above recited operations. Again, Applicants respectfully submit that such a piecemeal rejection of Applicants' claim fails to give credence to the overall combination of features recited in the Claim 7. The M.P.E.P. provides that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Applicants' claim does not merely recite transferring a communication session in the abstract. Additionally, Applicants' claim does not recite "a user endpoint" in the abstract. Rather, upon detecting a failure of an endpoint, Applicants' Claim 7 clearly recites "**determining that the third user endpoint is also associated with the user**," "**selecting the third user endpoint for the communication session**," and "**transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint**." This combination of elements is clearly absent from the *Manzardo-Ruberg* combination.

For at least these reasons, Applicants request reconsideration and allowance of Claim 7.

3.   **Claims 6, 26, 28-29, 31, 36, 37, and 39**

In the *Office Action*, the Examiner maintains the rejection of Claims 6, 26, 28-29, 31, 37, and 39 over the *Manzardo-Ruberg* combination. Although Applicants disagree with the Examiner's conclusions regarding the patentability of the pending claims over the *Manzardo-Ruberg* combination, Applicants have further amended independent Claims 6, 26, 36, and 39 to advance prosecution of this case. For example, independent Claim 6 of the present Application, as amended, recites:

> A method for recovering a communication session after failure of an endpoint, comprising:
> establishing a communication session between a first user endpoint and a second user endpoint, the first endpoint associated with a first user and the second endpoint associated with a second user;
> receiving keep alive signals from the first user endpoint;

detecting an interruption in the keep alive signals from the first user
endpoint;

      maintaining a connection with the second user endpoint after the
interruption;

      identifying a third user endpoint as being associated with the first user;
and

      transferring the communication session with the second user endpoint
from the first user endpoint to the third user endpoint.

Applicants respectfully submit that the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest the combination of features and elements recited in Applicants' independent Claim 6.

For example, the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest "identifying a third user endpoint as being associated with the first user" and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in Claim 6. In the *Office Action*, the Examiner states:

> *Manzardo* clearly teaches at page 5, paragraph [0053] (see figure 2, reference step 212): "During a step 212, the stand-by server 104 established connections with the gateway 120 and/or the interface 117 (transferring the communication session with the second endpoint from the first endpoint to a third endpoint means).

(*Office* Action, page 23). Applicants must respectfully disagree, however, with the Examiner's characterization of *Manzardo*. Although *Manzardo* does indeed state that "during a step 212, the stand-by server 104 established connections with the gateway 120 and/or the interface 117," the disclosed step only indicates that connections are established. When read in the context of the entire process disclosed in *Manzardo*, it becomes clear that the establishing of a connection with gateway 120 and/or the interface 117 at step 212 is merely the re-establishment of a previous connection with that particular gateway 120 and/or interface 117.

Specifically, *Manzardo* discloses that at a step 202, "gateway 120 and/or the interface 117 or some other client connection device may establish one or more connections with the main server 102 when supporting one or more call(s) . . ." (*Manzardo*, Pages 4-5, paragraph 44). The purpose of *Manzardo*, however, is to initiate a switch over from the main server 102

to the stand-by server 104 if the stand-by server 104 fails to receive one or more of the keep alive signals. (*Manzardo*, Page 5, paragraph 49). Accordingly, *Manzardo* discloses:

> During a step 206, the main server 102 stops initiating or sending keep alive signals . . . During a step 208, the stand-by server 104 detects a lack or loss of one or more keep alive signals initiated by the main server 102 . . . During a step 210, the gateway 120 and/or the interface 117 drop their connection(s) with the main server 102. Presumably, whatever problem happened with the main server 102 to stop it from sending keep alive signals to the stand-by server 104 will also result in a loss of the keep alive signal, if any, or other control, data or other signals being sent from the main server 102 to the gateway 120 and/or the interface . . .
>
> During a step 212, the stand-by server 104 establishes connections with the gateway 120 and/or the interface 117.

(*Manzardo*, Page 5, paragraphs 50-53). Thus, upon a failure of the main server, *Manzardo* discloses that any connections between that main server and the gateway 120 and/or interface 117 are dropped. Those same connections are then reestablished between the stand-by server and the same gateway 120 and/or interface 117. The reestablishment of connections with the gateway 120 and/or the interface 117 are not analogous to "identifying a third user endpoint as being associated with the first user" and "**transferring** the communication session with the second user endpoint **from the first user endpoint to a third user endpoint**" as recited in Claim 6.

Likewise, *Ruberg* also "relates to methods and apparatus for data distribution among servers in a grouped server system where device operations remain uninterrupted when a server fails." (*Ruberg*, Column 2, lines 18-20). Thus, even to the extent that *Ruberg* discloses a "desktop unit" that may or may not be analogous to Applicants' recited "user endpoint" (which Applicants do not admit), *Ruberg* does not relate to the failure of such a desktop unit. Like the system of *Manzardo*, the system of *Ruberg* would have no need (and *Ruberg* discloses no such need) for performing the steps of "identifying a third user endpoint as being associated with the first user" and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in Claim 6.

Since neither *Manzardo* nor *Ruberg* relate to the failure of endpoints but instead each relate to the failure of servers, the combination of these references cannot be said to disclose

"identifying a third user endpoint as being associated with the first user" and "transferring the communication session with the second user endpoint from the first user endpoint to a third user endpoint," as recited in Claim 6. Again, Applicants respectfully submit that such a piecemeal rejection of Applicants' claim fails to give credence to the overall combination of features recited in the Claim 6. The M.P.E.P. provides that "[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art." M.P.E.P. § 2143.03 (citing *In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970)). Applicants' claim does not merely recite transferring a communication session in the abstract. Additionally, Applicants' claim does not recite "a user endpoint" in the abstract. Rather, upon detecting a **failure of an endpoint**, Applicants' Claim 6 clearly recites "**identifying a third user endpoint as being associated with the first user**" and "transferring the communication session with the second user endpoint **from the first user endpoint to a third user endpoint**." This combination of elements is clearly absent from the *Manzardo-Ruberg* combination.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 6.

Independent Claims 26 and 39 include certain features and operations that are analogous to the features and operations recited in Claim 1. For example, Claim 26 recites "a processor operable to . . . identify a third user endpoint as being associated with the first user; and . . . transfer the communication session with the second user endpoint to the third user endpoint." As another example, Claim 36 recites "identifying a third user endpoint as being associated with the first user" and "transferring the communication session with the second user endpoint from the first user endpoint to the third user endpoint." As still another example, Claim 39 recites "means for identifying a third user endpoint as being associated with the first user" and "means for transferring the communication session with the second user endpoint to a third user endpoint." Accordingly, for reasons analogous to those discussed above with regard to Claim 6, Applicants submit that the proposed *Manzardo-Ruberg* combination does not disclose, teach, or suggest the features of independent Claims 26, 36, and 39.

For at least these reasons, Applicants respectfully request reconsideration and allowance of independent Claims 26, 36, and 39, together with the Claims 28-29 and 31 that depend from Claim 26 and Claim 37 that depends from Claims 36.

4.   Claims 11-13 and 15

In the *Office Action*, the Examiner maintains the rejection of Claims 11-13 and 15 over the *Manzardo-Berry* combination. It continues to be Applicants' position, however, that the proposed *Manzardo-Berry* combination does not disclose the particular combination of features and operations recited in Applicants' claims.

For example, the proposed *Manzardo-Berry* combination does not disclose, teach, or suggest the steps of "receiving from a user of the first user endpoint a user-generated message to reestablish the communication session" and "in response to the user-generated message, reestablishing the communication session between the second user endpoint and the user of the first user endpoint," as recited in Applicants' Claim 11. In the *Office Action*, the Examiner again acknowledges that the recited features and operations are absent from *Manzardo* and continues to rely upon *Berry*. As previously shown by Applicants, however, the portions of *Berry* cited by the Examiner in the *Office Action* indicate that it is the state machine 204 of the *Berry* system - and not an user endpoint - that initiates the messages.

Specifically, *Berry* discloses that "the **state machine 401** provides a set response mode message to the protocol layer 103 that causes the protocol layers 102 and 103 to begin the initialization process and re-negotiate the exchange rate and re-establish the connection." (Column 9, lines 35-39, emphasis added). *Berry* further discloses that "**state machine 401** provides a synchronization request message to re-establish the connection and/or renegotiate the exchange rate." (Column 13, lines 51-53, emphasis added). Thus, the relied upon portions of *Berry* merely disclose that a **state machine 401** initiates various messages during the negotiation of an exchange rate and the (re)establishment of a connection. (Abstract). Because *Berry* discloses that the state machine initiates the messages, Applicants maintain that there is no disclosure in the cited portions of *Berry* of "a user-generated message," as recited in Claim 11. Since *Berry* does not disclose a user-generated message, *Berry* cannot possibly disclose, teach, or suggest "receiving **from a user** of the first user endpoint a **user-generated** message to reestablish the communication session," as recited in Claim 11.   For analogous reasons, *Berry* also does not disclose, teach, or suggest "**in response to the user-generated message,**

reestablishing the communication session between the second endpoint and the user of the first endpoint," as also recited in Claim 11.

The Examiner again answers Applicants' arguments by directing Applicants to Column 5, lines 51-55 of *Berry*. (*Office Action*, page 20). That portion of *Berry* mere discloses, however:

> The devices, 100 and 101, could be any devices where point-to-point digital communication exchange is desired. Some examples of the devices, 100 and 101, include without limitation, tape drives, hard drives, tape library systems, notebook computers, desktop computers, and workstations.

(*Berry*, Column 5, lines 51-55). Thus, the cited portion merely describes the types of devices that may communicate by way of the point-to-point protocol of *Berry*. However, it continues to be Applicants' position that the cited portion does not disclose Applicants' recited claim elements. Although *Berry* discloses that the devices may include workstations or other user-devices, there is no disclosure that the user-devices are used to send user-generated messages during the negotiation of the exchange rate.

Perhaps anticipating that the cite portion of *Berry* is deficient, the Examiner further states in the *Office Action* that "*Berry* inherently teaches: a user generated message" and "receiving from a user of the first user endpoint a user-generated message to reestablish the communication session," as recited in Claim 11." (*Office Action*, page 21). However, the M.P.E.P. provides guidance with regard to when a characteristic is inherently disclosed in a prior art reference. Specifically, "[t]he fact that a certain result or characteristic <u>may</u> occur or be present in the prior art is not sufficient to establish the inherency of that result or characteristic." MPEP § 2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 U.S.P.Q.2d 1955, 1957 (Fed. Cir. 1993) (*emphasis original*). Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic **necessarily** flows from the teachings of the applied prior art. MPEP § 2112 (citing *Ex Parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis original*).

In the instant case, there is no indication in *Berry* that the allegedly inherent characteristics (i.e., receiving from a user of the first user endpoint a user-generated message to reestablish the communication session and in response to the user-generated message, reestablishing the communication session between the second user endpoint and the user of the first user endpoint) **necessarily** flows from the teachings of *Berry*. Although devices 100 and 101 are described as using the point-to-point protocol of *Berry*, there is no disclosure in *Berry* that a user of the device is involved in the negotiation of the exchange rate. The disclosure in *Berry* that devices 100 and 101 may include "hard drive notebook computers, desktop computers, and workstations" (*Berry*, Column 5, lines 51-55) does not change the principles of operation disclosed in *Berry*. In fact, and as identified by Applicants above, *Berry* actually discloses that a state machine 401 initiates various messages during the negotiation of an exchange rate and the (re)establishment of a connection. (Abstract). The only messages disclosed in *Berry* as being involved in the negotiation of the exchange rate involve those generated by the state machine 401. Since the negotiation of an exchange rate and the establishment of a connection for a communication exchange typically occurs without any user interaction at all, it does not follow that Applicants' steps of "receiving from a user of the first user endpoint a user-generated message to reestablish the communication session" and "in response to the user-generated message, reestablishing the communication session between the second user endpoint and the user of the first user endpoint" **necessarily** flow from the teachings of *Berry*. As such, Applicants continue to respectfully contend that Applicants' steps are not inherently disclosed by *Berry* or the proposed *Manzardo-Berry* combination.

For at least these reasons, Applicants respectfully request reconsideration and allowance of Claim 11, together with Claims 12-13 and 15 that depend from Claim 11.

B.   The Proposed Combinations are Improper

In the previous Response to Office Action submitted on July 17, 2007, Applicants argued that the Examiner had not provided the requisite teaching, suggestion, or motivation, either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of Applicants' invention to modify or combine *Manzardo* with *Ruberg,* and/or *Berry*. Although Applicants believe that those previous arguments continue to have merit, to avoid burdening the record, Applicants do no repeat those arguments here. Rather, Applicants

refer the Examiner to pages 18-25 of the Response to Office Action submitted on July 17, 2007, for a detailed discussion of the impropriety of the proposed combinations of references. Applicants reserve the right to again argue these points and any related points before the Board of Patent Appeals should an Appeal become appropriate. Additionally, should an Appeal become appropriate, Applicants reserve the right to argue that the Examiner has not provided the requisite teaching, suggestion, or motivation either in the cited references or in the knowledge generally available to one of ordinary skill in the art at the time of Applicants' invention to modify or combine *Manzardo*, *Ruberg*, and/or *Berry* with *Nguyen*.
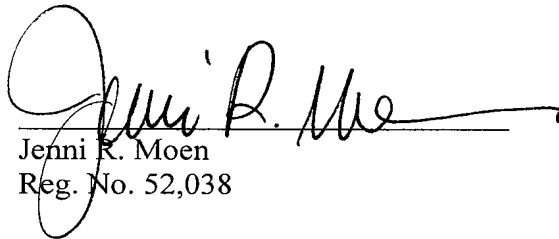
CONCLUSION

Applicants have made an earnest attempt to place this application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request reconsideration and full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this application in any manner, the Examiner is invited to contact Jenni R. Moen, Attorneys for Applicants, at the Examiner's convenience at (214) 953-6809.

Applicants believe that no fees are due, however, the Commissioner is hereby authorized to charge any fees or credit any overpayment to Deposit Account No. 02-0384 of Baker Botts, L.L.P.

Respectfully submitted,

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